

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DUSHON LAMEL HAMPTON,

Plaintiff,

v.

Case No. 05-74119  
Hon. Victoria A. Roberts

PJETER MARKAJ

Defendant.

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**ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION**

This matter is before the Court on Plaintiff's Motion for Reconsideration and Motion to extend time to file a motion for reconsideration.

Plaintiff seeks reconsideration of the Order granting Defendant's motion to dismiss entered on March 20, 2006. Plaintiff filed his Motion for reconsideration on March 27, 2006. Therefore, his Motion for reconsideration is timely and the Motion to extend the time to file is **MOOT**.

(g) Motions for Rehearing or Reconsideration.

(1) Time. A motion for rehearing or reconsideration must be filed within 10 days after entry of the judgment or order.

(2) No Response and No Hearing Allowed. No response to the motion and no oral argument are permitted unless the court orders otherwise.

(3) Grounds. Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of

the case.

E.D. Mich. LR 7.1(g).

Plaintiff argues it was a 5<sup>th</sup> Amendment due process violation to preclude him from bringing his employment discrimination claim without first obtaining a right to sue letter from the Equal Employment Opportunity Commission (“EEOC”). [Doc. 17, p. 2]. The requirement, found in 42 USC §2000e-5(f)(1), was enacted by Congress as part of Title VII, on July 2, 1964. Plaintiff fails to allege any argument to support a finding that the statute is a violation of the Fifth Amendment. See *Nebbia v. People of State of New York*, 291 U.S. 502, 525 (1934)(must allege law was made without authority; arbitrary and capricious; unreasonable; and/or not related to the object sought to be attained).

Also, Plaintiff argues the Court erred by not compelling the Defendant to answer questions asked by Plaintiff. [Doc. 17, p. 3]. This argument is without merit. Undeniably, the Court is not required to compel the Defendant to answer questions posed by Plaintiff in ruling on a motion to dismiss.

Lastly, Plaintiff argues the Court erred by not respecting his right to a jury trial under Federal Rule of Civil Procedure 38. [Doc. 17, p. 3]. Again, the argument is without merit. Plaintiff did not have a trial so the right to a jury was not invoked.

Accordingly, Plaintiff's Motion for reconsideration is **DENIED**.

**IT IS SO ORDERED.**

S/Victoria A. Roberts

**Victoria A. Roberts**

**United States District Judge**

**Dated: April 4, 2006**

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se plaintiff by electronic means or U.S. Mail on April 4, 2006.

S/Carol A. Pinegar

Deputy Clerk